IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5063 OF 2004

Smt.Aruna Vitthal Burkule & Ors. ...Petitioners

Versus

Shri.Sudhir Sheevaji Kotwal ...Respondent

.....

Mr.C.D.Deshmukh for Petitioners.

None for Respondent.

.....

CORAM: A.M.KHANWILKAR, J.

AUGUST 16, 2004.

P.C.

1. Heard Counsel for the Petitioners.

2. The Court below has rejected the application preferred by the Petitioners, essentially because the Petitioners failed to produce any material to show that the criminal case was still pending when the application was being decided on 5th March 2004, whereas, the certified copy which was produced by the Petitioners was

issued on 27th June 2003. In other words, it was found that there was no material on record to show that the criminal proceedings were pending on the relevant date. Besides, it has also been noted that in the present proceedings, the Court has passed order as back as in June 2003 to proceed with the Suit without written statement and that order is still operating. If it is so, no fault can be found with the Court below in rejecting the application preferred by the Petitioners in the fact situation of the present case.

3. Viewed in this perspective, the decision in **Arvind Kalidas Wadodkar vs. Ramdas Devidas Joshi's case reported in 1997 (1) All.M.R. 303**, will have no application. Dismissed.

A.M.KHANWILKAR, J.